



**CITY OF SUNNYVALE
REPORT
PLANNING COMMISSION**

September 20, 2004

SUBJECT: **2004-0566 - Richard Harmon [Appellant]:** Appeal of a decision by the Administrative Hearing Officer denying a Variance on a 6,168 square foot site located at **924 Mockingbird Lane** in an R-0 (Low Density Residential) Zoning District. (APN: 198-42-003)

Motion **Variance** from SMC (Sunnyvale Municipal Code) section 19.34.030 to allow a combined side-yard setback of nine feet and ten inches where twelve feet is required.

REPORT IN BRIEF

Existing Site Conditions Single-Family Residential

Surrounding Land Uses

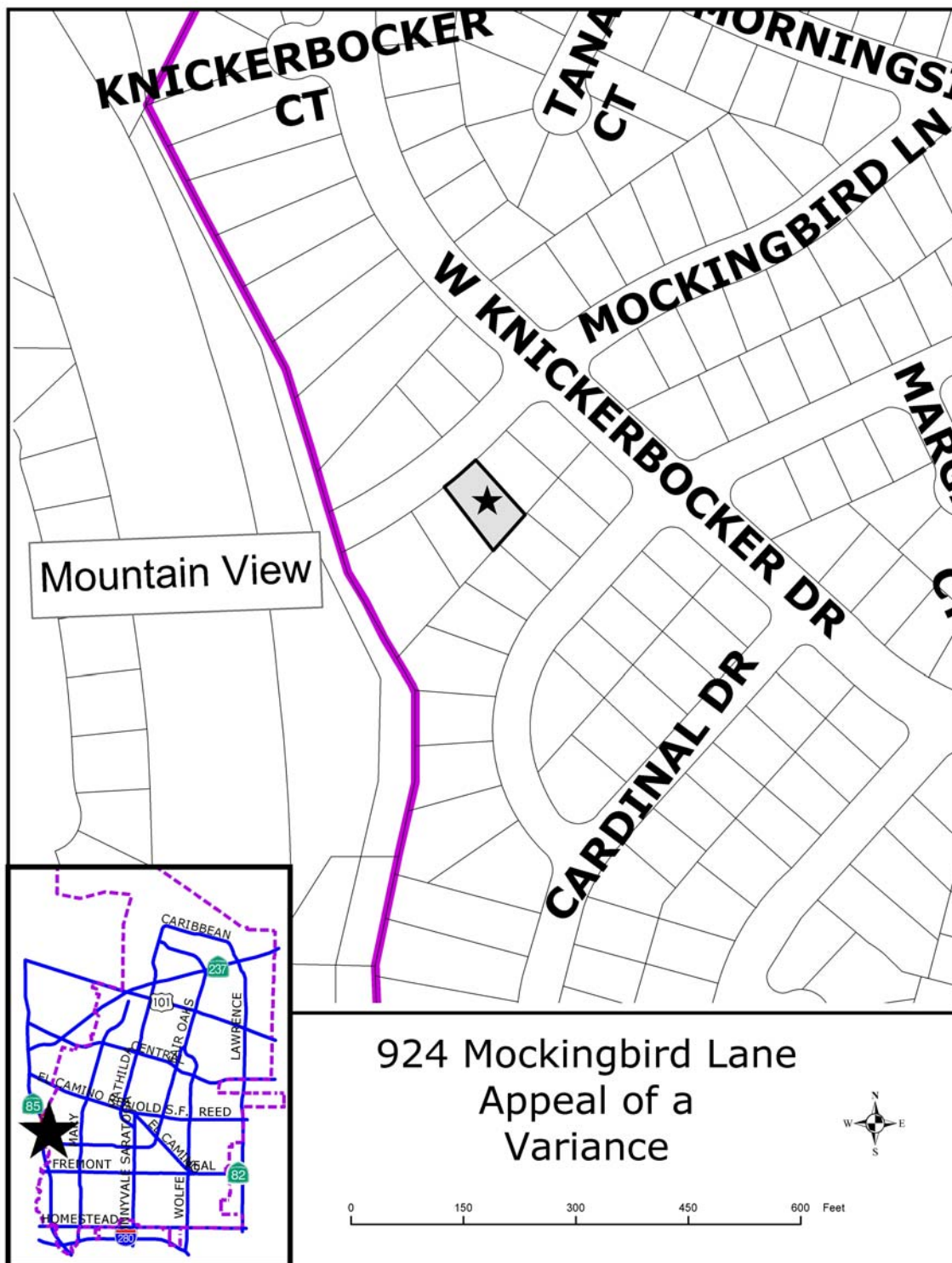
North	Single-Family Residential
South	Single-Family Residential
East	Single-Family Residential
West	Single-Family Residential

Issues Total Side Yard Setback

Environmental Status A Class 5 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Administrative Hearing Officer Action Denial

Staff Recommendation Deny appeal and uphold decision of Administrative hearing Officer to deny the Variance.



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Residential Low Density	Same	---
Zoning District	R-O	Same	---
Lot Size (s.f.)	6,168	Same	6,000 min.
Gross Floor Area (s.f.)	1,662	2,017	2,776 max.
Lot Coverage (%)	27 %	33 %	45 % max.
Floor Area Ratio (FAR)	27 %	33 %	45 % w/o Plng. Comm. approval
No. of Buildings On-Site	1	1	---
Building Height (ft.)	15	Same	30 max.
No. of Stories	1	1	2 max.
Setbacks (facing prop.)			
• Front	24.9	21.5	20 min.
• Left Side	5.7	4.2	4 min. (12 total min.)
• Right Side	5.5	Same	4 min. (12 total min.)
• Rear	27.1	Same	20 min.
Parking			
• Total No. of Spaces	4	Same	4 min.
• No. of Covered Spaces	2	Same	2 min.

ANALYSIS**Background**

Previous Actions on the Site: On August 11, 2004, the Administrative Hearing Officer considered this application. The applicant challenged staff not making Finding #1, which requires that an extraordinary circumstance or condition deprives the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district. The Applicant noted that the tapering property line prevented a standard extension of an existing wall

and provided pictures of similar types of additions in the neighborhood. The applicant also stated that in his professional opinion as an architect, the required jog in the addition needed to meet the setback requirements would result in an odd and arbitrary appearance, suggesting “an obvious and badly executed addition”. The Administrative Hearing Officer was unable to make the required Findings (#1) and denied the Variance.

Description of Proposed Project

The proposed project involves a 355 square foot addition to the front of an existing house. The project will consist of an addition of a master bedroom and master bathroom, as well as a remodeling of 32 square feet of an entryway. As proposed, the project requires a Variance to allow a total side yard setback of 9 feet 10 inches where 12 feet is required.

Environmental Review

A Class 5 Categorical Exemption relieves this project from California Environmental Quality Act provisions. Class 5 Categorical Exemptions include minor alterations in land use limitations, including setback variances.

Variance

Use: The applicant requests to expand the front of the house to make space for a master bedroom and master bath. The entryway will also be modified to include an entry clerestory. The applicant has requested extending the addition forward to continue along the plane of the existing side of the house. Given the slightly irregular shape of the lot, the addition will result in a side yard non-conformity.

Site Layout: The proposed 355 square foot addition is to the front of an existing 1,662 square foot house. The project is located on a 6,168 square foot lot. The site includes a large tree in the front yard and two smaller trees located in the rear yard. The lot is not rectangular and the applicant is requesting the Variance to maintain the linear integrity of the left side of the house. The applicant is concerned that angling the addition or designing a jog in the house would result in an unattractive architectural feature.

Architecture: The ranch style house was built during the post WWII period in 1953. The proposed single-story addition will introduce a dormer window and gable to the front elevation while maintaining most of the existing architecture. The addition of the master bedroom will result in a recessed entryway. The application also includes design features to improve the architectural character and appearance of the house; these features would be approved as part of a standard design review and are not part of the Variance application.

Compliance with Development Standards

No other setbacks or lot coverage deviations are requested with this application. The new front yard setback will be 22 feet, which is in compliance with the Sunnyvale Municipal Code. The total side yard setback is currently in non-conformance at 11.2 feet, which is less than the required 12 feet. The project would result in a total side yard setback of 9.8 feet at the forward-most corner of the lot. The left side yard setback would be reduced from 5.7 feet to 4.3 feet, which meets the minimum side yard setback of 4 feet for one side.

The increased non-conformity is due to the non-symmetric nature of the lot. The rear lot line is 8.3 feet longer than the front lot line, resulting in a narrowing toward the front of the lot. If the lot shape were symmetric, with the average length used (60.9 feet), then the addition would conform to City Code.

The applicant has explored the possibility of adding the addition to the rear of the house; however, the reduction to the rear yard would require a reconfiguring of the home, would impact on the use of the rear yard as a children's play area and may impact existing trees.

Staff understands the applicant's justifications; however, staff is not able to make the necessary findings to recommend approval. This application is not typical of other Variances that have been approved in that the lot size is above the minimum required. The lot width, as measured at the required front yard line, is 58 feet where a minimum of 57 feet is required. It is, however, less than typical R-0 widths of 60 feet, and is less than the typical width of nearby lots. In the opinion of staff, the resulting jog (if the required setback is followed) would not be a significantly noticeable architectural feature.

Expected Impact on the Surroundings

The proposed project is expected to result in no notable impact to the surrounding properties. The owner of the neighboring property to the east, which would appear to be the most impacted by the proposed addition, signed a statement that they had reviewed and approved of the proposed changes. Of the seven neighboring properties on Mockingbird Lane, one had an approved Variance to a front yard setback in 2002, and the neighbor directly to the east completed a second-story addition to their home that was approved 1997. The proposed work is located beyond the 100 foot stream buffer directed by the Santa Clara Valley Water District.

Findings, General Plan Goals and Conditions of Approval

Staff was not able to make the required Findings based on the justifications for the Variance. If the Planning Commission is able to make the Findings, the suggested Conditions of Approval are located in Attachment 2.

- Findings and General Plan Goals are located in Attachment 1.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Posted on the site• 11 notices mailed to the adjacent property owners and residents of the project site	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website• Recorded for SunDial

In addition, five of the applicant's six neighbors signed a statement that they had reviewed the plans and are in support of the proposed addition and Variance (see Attachment 5). The sixth neighbor was out of town at the time.

On August 11, 2004, the Administrative Hearing Officer considered and denied the application. The applicant's family attended the hearing. There were no members of the public who spoke in favor or against the application; however, the applicant had a signed petition from all six neighbors on Mockingbird Lane recommending approval of the Variance.

Alternatives

1. Deny the appeal and uphold the decision of the Administrative Hearing Officer denying the Variance.
2. Approve the Variance with attached conditions.
3. Approve the Variance with modified conditions.

Recommendation

Alternative 1.

Prepared by:

Jamie McLeod
Project Planner

Reviewed by:

Fred Bell
Principal Planner

Reviewed by:

Trudi Ryan
Planning Officer

Attachments:

1. Recommended Findings
2. Recommended Conditions of Approval
3. Site and Architectural Plans
4. Justifications from the Applicant
5. Statement of approval by neighbors
6. Site Photos
7. Administrative Hearing Minutes of 8/11/04
8. Reason for Appeal Letter from Applicant (incl.
revised approval signature from neighbors0029

Recommended Findings - Variance

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district. This Finding is not made. While staff understands the applicant's justification that the need for a Variance is based on the non-symmetric nature of the lot, staff is not able to make the findings for this criteria for the following reasons:
 - The lot size (6,168 sq. ft.) is above the minimum standard size (6,000 sq. ft.);
 - The front lot width at the required front yard line (20 feet from the property line) is 58 feet, which is slightly greater than the minimum of 57 feet and slightly less than the typical 60 feet; and
 - The jog in the house that would result from maintaining the required setback may not result in a significantly noticeable architectural feature.
2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district. This Finding is made. The addition would allow the applicant to maintain a one-story home in a predominately single-story neighborhood. The proposed addition is not expected to impact on the privacy of the neighboring property. And the proposed changes to the home include architectural enhancements.
3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district. This Finding can be made. The intent of the ordinance to maintain a certain distance between homes and to maintain privacy rights for homeowners. The proposed addition on the left side of the house extends beyond the right of the house; and at the forward-most corner of the proposed addition, the structure meets the minimum side yard setback of 4 feet for an R-0 Zone.

Recommended Conditions of Approval - Variance

Staff recommends denial. If the Planning Commission can make the necessary Findings, staff recommends the following Conditions of Approval.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. The two-year expiration date of the Variance shall be measured from the date of the approval of the final review authority at a public hearing if the approval is not exercised.
2. Project shall be in substantial conformance to the approved plans. Minor changes may be approved by the Director of Community Development; major changes shall be subject to the approval at a public administrative hearing.
3. Obtain a building permit prior to development of the site.
4. Maintain the mature tree located in the front yard of the subject site. Precautionary measures shall be taken during the construction phase to protect the tree and the root structure from damage.